



**TENNESSEE HUMAN RIGHTS COMMISSION**  
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**January 18, 2013**  
**Board of Commissioner's Telephonic Meeting**  
**Minutes**

**Commissioner's Present:**

Commissioner Blalock  
Commissioner Davis  
Chair Garrett  
Commissioner Hewitt  
Commissioner Horne  
Commissioner McDaniel  
Commissioner Miller  
Commissioner Pierce  
Commissioner Starling  
Commissioner Walker  
Commissioner White  
Commissioner Wiggins  
Commissioner Wurzburg

**Commissioner's Absent:**

Commissioner Cocke  
Commissioner Jones

**Staff Present:**

Beverly Watts, Executive Director  
Sabrina Hooper, Deputy Director  
Shalini Rose, General Counsel  
Tiffany Taylor, Title VI Compliance Director  
Susannah Berry, Special Assistant to Executive Director/Communications Specialist  
Lisa Lancaster, Executive Assistant  
Richard Gadzekpo, Housing Coordinator

**Guests:**

None

**Call to Order**

Chair Garrett called the meeting to order at 9:10 a.m. CST. Roll call was taken by Chair Garrett and she introduced new West Tennessee Commissioner Ralph White from Memphis and asked him to tell the commission a little bit about himself. Commissioner White informed those attending that he was born and raised

in Memphis and he was a Pastor of church there for 28 years. He keeps busy working with many political groups and is honored to be a part of this group.

Minutes of the November 16, 2012 meeting were reviewed. Commissioner Miller made a motion to accept. Commissioner Pierce seconded the motion. A vote was taken and passed.

### **Executive Director's Report**

Executive Director, Beverly Watts, welcomed everyone and wished all a Happy New Year. She noted that we had a busy December beginning with our All Staff Meeting on December 5, 2012 where Lisa Lancaster was named Employee of the Year for 2012. She was pleased to announce that all of our staff vacancies have been filled as of December when we hired Suzanne Land to complete the Intake Division.

The Legislative session has started and there are a number of bills which General Counsel Rose will brief you on later in her report.

Important to note is the survey information that was included in your packets. You have the fiscal year report from 2012 complete with comments listed. Some witnesses made positive comments indicating our investigators were professional, thorough and helpful. We received some information that we were concerned about indicating that our investigators had not acted appropriately or that they may have taken a bribe. This was a no cause case and the Complainant was upset. We did investigate these allegations and found no evidence to support the claim. We will look into all comments that we receive and report our findings to you on a regular basis. In both employment and housing, we received positive comments that noted our investigators did a thorough job, they returned phone calls and overall did a great job. The positive comments far exceeded the negative comments even on no probable cause cases.

In July, we have started again and have provided a year-to-date report. One witness in a housing case did not like the agreement written by us and wanted to use the one written by their attorney but it was not consistent with our rules and regulations.

Sabrina Hooper, Deputy Director is reviewing the surveys on a monthly basis and will take required actions. We will advise this body of the results and report on any issues or concerns raised about the investigators or our process.

In addition to the surveys, the legislative session has started and Shay Rose will brief you. Also, I will not speak about the 50<sup>th</sup> Anniversary events as that will be covered in the Communications report. A week from Monday four staff members will be traveling to Charlotte NC to attend a HUD Regional Training for Housing.

We are currently working with Tennessee State University, Tennessee Fair Housing Council, Metro Housing Development Agency and Housing Opportunities Made Equal to develop an Education and Outreach proposal to HUD. If the proposal is successful we may be able to obtain 3 or 4 interns that will be paid through the grant over a 12 to 18 month period. If the grant is successful it would begin July 1, 2013. We met on Monday and will

be meeting with persons to submit the grant. It sounds like a great opportunity and we are having positive thoughts for the grant approval.

Commissioner Davis made a motion to accept the Executive Directors report and Commissioner Hewitt seconded the motion. A vote was taken and passed.

### **Law & Legislation Committee Report**

Chair Wurzburg noted that the committee met on December 10, 2012 about the THRC v. Weathers housing case based on national origin where a renter was denied housing because she was of Chinese descent and might stir fry in the kitchen causing damage to the unit. An ALJ heard the case and did find that discrimination had taken place and awarded the Complainant Ms. Ma and her friend and translator Mr. Liu was awarded \$750. He has consistently appealed his award asking for much more.

He did file a timely review of the ALJ's decision and this committee decided to go ahead and take another review of his appeal but the committee could not find any reason to find that it should take any kind of further action on this case. The ALJ heard everything and there was no reason under the scope of review to give this any further consideration.

There was no "abuse of discretion" on the part of the hearing examiner. We know Mr. Liu is aggrieved and feels humiliated and embarrassed and he did incur these travel expenses but he had an opportunity at the hearing to present all these things and he did not put forward any reason for the committee to reconsider or for there to be any additional funds coming his way.

The Committee needs to update the commission that we have gone above anything that we should have done and looked at the award amount one last time and found that there should be no other reason to reopen this case. Mr. Liu does have the right to go to court and if he does and takes this further it will then be handled by the Attorney General's office and not by the Commission.

We sent him a letter, and we tried all throughout this process to explain to him that he has been heard thoroughly and that there is nothing more that we intend to do about trying to get him any increased funds for this case.

We just want to report to the Commission and are not sure if there is any further action that the Commission needs to take as we have already voted previously that we have done all we can and are very concerned to access to justice issues. This is the latest bench and bar concern that everyone is worried about this but we think that Mr. Liu has had full access to our procedures and that there is nothing else that should be doing in this case.

Commissioner Starling made a motion to accept the Law and Legislation Committee report and Commissioner Pierce seconded the motion. A vote was taken and passed.

## **Education and Outreach Committee Report**

Committee Chair McDaniel noted that the Education and Outreach Committee met on Wednesday, January 16, 2013 dealing with the 50<sup>th</sup> Anniversary activities and turned the report over to Co Committee Chair Pierce to continue with the report.

Commissioner Pierce asked that those attending make notes about upcoming events that are important to recognize our 50<sup>th</sup> Anniversary. The first date is February 5, 2013 and will be in Knoxville at the Beck Cultural Center. This will be a kickoff event and we will recognize people who have made significant contributions to civil rights and human rights and we have been asking for nominations from commissioners in their areas to send those in to Susannah Berry by January 22, 2013 as the committee will meet on January 23, 2013 and make final selections at that time.

We are still looking for sponsors for anniversary events and Susannah Berry sent out the information on the 501C3 for people who want to contribute tax deductible money. On February 28, 2013 the Commission will sponsor a reception event to view the Emancipation Proclamation at the Tennessee State Museum in Nashville. There will be speakers on the history of civil rights beginning with the emancipation proclamation until the present. This event will be followed the next day with a Board of Commissioner's Meeting.

In Chattanooga we are still looking for a location to hold our March 14, 2013 Anniversary event and we will have a kick off in Memphis on April 11, 2013 and then we will end with the Anniversary Luncheon in Nashville on October 4, 2013 with speakers for the event of Diane Nash and others and we will have our board of Commissioner's meeting that morning at 9 am.

Please put these dates on your calendars and attend them all if you can. Also in Chattanooga we will be having our mini Employment Law Seminar on the morning of March 14, 2013 followed by the reception that evening. In Memphis on April 11, 2013 we will also have a mini Employment Seminar that morning.

We would also like to have additional names for the Honorary Advisory Committee, this would be people who will be leaders in your areas that might want to serve and we would need those names by next week. We have asked the Governor to be our chair and Lt. Governor/Speaker of the House to be co-chair and we desire to have a committee that is representative of Tennessee leaders.

Also please send in contact information on people that you want to be invited to these events to Susannah Berry as soon as possible. Susannah Berry will send an email out to all commissioners as a reminder of these dates and deadlines.

Commissioner Wurzburg noted that the plans are going to be exciting and we hope that all commissioners will participate. We think that what we are planning is going to be of benefit to the communities and the state with our celebrations and it is going to be fun.

Commissioner Pierce noted that a lot of work is being done to compile our history that can be placed on the website and identification of all past commissioners and past staff members so that all can be included.

Commissioner Wurzburg also noted that the next day after the Memphis event will be the THRC Housing Conference.

Commissioner Hewitt made a motion to accept the Education and Outreach Committee Report. It was seconded by Commissioner Davis. A vote was taken and passed.

### **Employment Case Report**

Deputy Director, Sabrina Hooper reported on the period November 1, 2012 to December 31, 2012 during this timeframe we received 143 inquiries which resulted in 81 charges being accepted for investigation. We closed 39 cases with a closed charge age of 234 days. Our open inventory at the end of December 2012 was 383 cases with an average open charge age of 204 days. During the same time period we had 7 mediations close resulting in \$20,432 in monetary benefits to the complainants. There were 3 cases resolved by settlements resulting in \$44,436 monetary benefits.

In comparison to last year we received 126 inquiries, which resulted in 75 charges. During the same time period the agency closed 75 cases with a closed charge age of 234 days. Our open inventory at the end of December 2011 was 297 cases with an average charge age of 235 days. In 2011, two mediations were resolved resulting in non monetary benefits, usually consisting of uncontested unemployment and neutral references. Three cases resolved through settlements resulting in \$4,228 in monetary benefits.

Case closures appear to be down for this time period but when reviewing the submitted cases from the investigators, we did meet our first quarter goals of 26% and these cases are under review and have not been reflected in the system.

A motion to accept the Employment reports was made by Commissioner Wurzburg and seconded by Commissioner Pierce. A vote was taken and passed.

### **Housing Case Report**

Housing Coordinator, Richard Gadzekpo reported on the period November 1, 2012 to December 31, 2012 when 26 inquiries were received and 11 were accepted for investigation. The primary bases continue to be disability and race. We closed 14 housing complaints and 2 were THRC only cases. 36% or 5 of those cases were no probable cause cases and 64% or 9 were administratively closed with 2 being conciliated, 1 withdrawal with resolution and 1 withdrawal and 1 dismissed as non jurisdictional.

The chart represents the number of cases that were closed within 100 days up to 250 days. Comparing the statistics with that of last year the numbers are relatively the same and we have discovered that there is still a need to improve on case processing age so to increase our case closures we have met with staff and have discussed the need to restratigize and plan well so that we can meet our case closure goals.

Currently for our HUD 50% efficiency goal we are at 33% which makes us feel uncomfortable because last year at this time we were at 70%. We are looking forward to next quarter doing greater work than we have done the first half of the year.

Commissioner McDaniel made a motion to accept the housing report. Commissioner Walker seconded the motion. A vote was taken and passed.

### **Legal Report**

General Counsel, Shay Rose reported on the period November 1, 2012 to December 31, 2012. In employment Legal closed out 35 cases, and in housing we closed 12 cases. These numbers are low due to staff being out and having a trial in November, and there should not be a backlog by the next board meeting.

The legal update on the THRC v. Weathers case reported on by the Law and Legislation committee earlier is that after the last board meeting, a final order in the case was voted on and entered by the commission on November 16, 2012, and Mr. Liu filed a reconsideration on November 30, 2012, making it necessary for the Law and Legislation committee to meet. If they had not met, then the reconsideration would have been automatically denied in twenty days. Consequently there was not enough time for the full commission to meet so the committee met and decided to deny the request officially. Mr. Liu had 60 days from the November 16, 2012, final order to appeal to court. His deadline would have been January 15, 2013, and as far as we know he has not filed anything in court, but it is still possible that he has and it just has not been served on the agency. We will update you at the next board meeting again.

The first cause case update is regarding the employment case where a corrections officer was terminated because of his race and the employer had a lot of officers who were Caucasian and were allowed to do worse things than the African American complainant and were not fired. The case went to a hearing on November 29, 2012, and the judge took it under advisement and she requested that we write briefs supporting our positions and hopes to issue a ruling in the spring.

In housing we have four cause cases with the first one is regarding a child with a disability who has a wheel chair and they wanted to put a ramp into the front of the residence. The landlord said they could not put it on the front of the house but must put it in the garage which was not feasible. The case has been filed with the Secretary of State and a judge has been assigned, and it will go to a hearing in the spring if the mediation attempt fails in February.

There are three new housing cases of discrimination that were caused last month. The first one is where a person called about the availability of an apartment and the landlord said "yes it is still available" and later during the conversation, he said it was not available. The caller asked if it was because he was "black," and the landlord said "yes. The complainant has an attorney, and we filed this case with the Secretary of State on Wednesday, January 16, 2013, and it will go to a hearing.

The second case is where two tenants requested they be allowed to have an emotional support animal for their disabilities and the landlord denied them. It appears the landlord did not believe them even though they had documentation from their doctor. The complex also asked for more paperwork to be completed that would explain why they needed emotional support animals, and the questions were found to be too intrusive. This case was caused on December 20, 2012 and both parties have shown signs that they are interested in settling, so we may be able to mediate these cases.

The last case is a retaliation complaint where the tenant had complained about her gender with her landlord and then she filed with THRC. The day after he was notified of the complaint, he turned off her electricity. We are working on conciliation in this case.

The Legislature convened on January 8, 2013 and we have been asked to do fiscal notes on four bills. Senator Summerville from Dickson has filed fifteen bills, and we are watching eight of them. Each of these eight has something to do with race, gender, or national origin.

The first is called the "Higher Education Equality Act," and it prevents institutions of higher education from granting preferences based on race, gender and ethnicity to students, its employees or contractors. We found that this would increase the amount of complaints we have and would require us to add another Administrative Services Assistant staff and that would cost the agency \$47,800.

The next bill is very similar to what he filed last year, and it affects our law, the Tennessee Human Rights Act. It says the state shall not discriminate or grant preferential treatment to any individual or group on the basis of race, sex, color, ethnicity or national origin in the operation of public employment, public contracting and public education. That would expand what we do as we do not do public contracting or education currently, and this would significantly increase in complaints we receive, and training of staff would be needed. This would cause us to need an additional investigator and intake staff person to deal with the extra work and so a fiscal note of \$112,000 was placed on this bill.

Commissioner Pierce asked if these bills came with money to fund the fiscal notes and Executive Director Watts answered no they do not come with money.

The third bill prohibits public institutions of higher education from employing or assigning the duties of a diversity officer meaning they would have to get rid of any diversity officers they have. We found that would affect our Title VI program and our Employment program by increasing inquiries and complaints, requiring us to employ two additional staff at a cost of \$95,000.

The fourth bill affects all agencies and it prohibits state government entities from compiling and keeping statistics and data by race, gender or ethnicity unless specifically required by Federal Law or court order. It also requires any entity to identify any laws that contravene that and to propose legislation to eliminate those laws. We found that eliminating laws that make us keep track of data and statistics by race, gender and national origin would affect

our federal funding in employment, housing and Title VI and would cost our agency \$900,000 in lost federal funding.

Currently none of these have sponsors in the house and have not moved, and we will update the status of the bills at the next board meeting.

Commissioner Starling noted that in the House they have a 15 bill limit and house members will definitely be looking at bills that have fiscal notes on them which may make them difficult to get through, and they are not going to waste time on a bill that may not get passed.

General Counsel Rose noted that THRC was not the only agency that responded to these bills, and she assumed that the Board of Regents and Higher Education also attached fiscal notes to these bills.

Commissioner Starling made a motion to accept the legal report. Commissioner Pierce seconded the motion. A vote was taken and passed.

### **Outreach & Education**

Communications Specialist, Susannah Berry reported on the period November 1, 2012 to December 31, 2012 and during the period we participated in 9 events which included 3 speaking engagements and we reached a total of 1,585 individuals which brings our year to date totals to individuals reached to 11,084 and 45 events. We exhibited at 6 events and attended 18 events

Executive Director Watts spoke at the Tennessee Statewide Independent Living Council on November 1, 2013; she mc'd the Human Rights Day on December 10, 2012 (we also exhibited at this event); and there were 100 attendees. On December 13, 2012 she spoke at the Brownsville Roundtable which was attended by Commissioner Wurzburg, Deputy Director Sabrina Hooper; communication Specialist Susannah Berry; Title VI Compliance Program Director, Tiffany Taylor and IT Support, Tracy Davidson and there were 45 attendees at the event.

We attended the Bill of Rights Celebration hosted by the ACLU; Director Watts was honored by the Girl Scouts of Kentucky in Lexington and inducted into their Women of Distinction on November 9, 2012 and 300 attended this event. Susannah Berry attended the Disability and Cultural Diversity Conference; Director Watts attended the opening of the Murfreesboro Mosque and on December 11, 2012 our IT support staff, Tracy Davidson was honored by the state of TN IT department at its annual IT awards.

We exhibited at Tennessee Affordable Housing Conference on November 27 – 28, 2012 in Murfreesboro with 300 attendees.

There were several media inquiries, articles and interviews during the period. There were two articles that mentioned the THRC in reference to the Bluff City Mayor but we were not contacted about the articles. They used the Notice of Determination letter that was mailed to the city in the article.



On November 15, 2012 we had a press release sent out related to Director Watts induction into the Women of Distinction and Paula Casey created another press release on December 4, 2012 announcing the appointment of Commissioner Horne.

As a result of press releases the Brownsville Radio station ran an advertisement for our Roundtable beginning November 27 through December 10, 2012 and there was an article in Jackson Sun and a request for a radio interview but was cancelled at the last minute...

There were three article generated off of THRC participation in Human Rights Day two of which were opinion articles that were picked up by a newspaper in Greenville SC. We have been mentioned in reference to our event at the TN State Museum to view the Emancipation Proclamation. They are including our event on a side bar that lists all the events happening in conjunction with the Emancipation Proclamation visit at the museum.

We had our all Staff meeting on December 5, 2012 and Special Projects Officer Frank Guzman responded to 45 phone calls from the Hispanic community during the period and there were no additional requests for interpretation services during this time.

Commissioner Pierce spoke on the panel of the Human Rights Day event and it is being shown on Channel 3. We will see if we can get copies of the program.

The calendar of events is included in your packets.

February 5 – Knoxville/Beck Cultural Center - Roundtable and Reception

February 28 – Nashville/TN Museum – Emancipation viewing/reception

March 1 – Board of Commissioner's Meeting

March 14 – ½ Day ELS-Chattanooga and Reception

April 3 – TN Fair Housing Matters Conference- Murfreesboro

April 4 – Commemorative Banquet-Memphis

April 11- ½ Day ELS Memphis & Reception

April 12 – West TN Fair Housing Conference

May – Murfreesboro Roundtable

June – ELS Nashville

October 4 – Board Meeting & 50<sup>th</sup> Anniversary Luncheon

January 22, 2013 is the deadline to turn in nominations of honorees, committee members and contact information for invitations to be sent. During the period we received no requests for translation services.

Commissioner Davis made a motion to accept the Communications report. Commissioner Pierce seconded the motion. A vote was taken and passed.

### **Title VI Compliance Report**

Title VI Compliance Director, Tiffany Taylor reported on the period November 1, 2012 to December 31, 2012. During the period we completed the review of submitted compliance items from the TN Department of Corrections and the TN Wildlife Resources Agency. The

items were from their Compliance Action Plan that was a result of 2012 compliance reviews. .

We will begin this year's compliance review for three agencies within the next month. Between October and December we were very busy with our review of 42 agency Title VI Implementation Plans. Each agency received their initial review and finding letters on December 28, 2012 and was given until January 15, 2013 to respond to them. We received 3 requests for extensions until January 18, 2013 to submit their information to us. Final findings will go to the agencies on February 1, 2013.

In reviewing the plans we found that 3 agencies will receive a finding of untimely receipt which are TN Community Services Agency, TN Department of Transportation and TN Department of Treasury.

Eight agencies met all the requirements and did not require any findings and those were Administrative Office of the Courts, Department of Intellectual and Developmental Disabilities, Department of Mental Health, Veterans Affairs, Human Rights Commission, State Museum, State Veterans Home Board and TN Wildlife Resource Agency.

There were thirty four agencies that required additional information and clarification of information that was submitted. These are listed in the report. Two agencies did receive findings for requirements not met and they were the Board of Regents which was for a repeat finding of being out of compliance with the 180 day state requirement for accepting complaints and Department of Agriculture for failure to submit information regarding the boards and commissions associated with their department.

Technical assistance was provided to the Department of General Services by helping with their training plan and reviewing and approving it; the Board of Regents coordinator in helping to develop an investigative plan based on a complaint that THRC referred to them; Office of Criminal Justice Programs regarding our role and the state's role particularly the Legislative branch in reporting requirements under Title VI.

We participated in the West Tennessee Roundtable in Brownsville; participated in the Orientation of Commissioner Horne; January 16, 2013 held Title VI 101 Training for new Title VI Coordinators and additional staff wanting to learn about Title VI.

We are currently investigating a complaint against the TN Department of Education alleging intentional discrimination and termination of contract due to race and we followed up with the TN Arts Commission to bring them into voluntary compliance regarding our internal investigation that dealt with their procedure of limited access to their \$100,000 grant program.

Inquiries received during the period were 36 with 3 complaints filed and 7 complaints closed.

A motion was made to accept the Title VI report by Commissioner Horne and seconded by Commissioner Starling. A vote was taken and passed.

**Announcements**

Commissioner Pierce voiced congratulations to Lisa Lancaster on being the Employee of the Year and extended thanks to Susannah Berry for her work toward the 50<sup>th</sup> Anniversary which will keep her busy until October. Executive Director Watts also thanked Susannah Berry and Shay Rose for her work and noted that the legal department is doing a great job. Employment and housing staff continue to do a commendable job and Deputy Director Sabrina Hooper continues to do more than she thinks she has time to do. Thanks staff.

Chair Garrett announced that the next meeting will be on March 1, 2013 which will be an in person meeting and adjourned the meeting at 10:00 a.m.